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• MESSAGE •

Examiner Coburn:

As you requested, attached is a copy of the Examiner's Answer that we received for U.S. Patent Application Serial No. 09/635,956. Please contact us if any questions arise.

Respectfully submitted,
Tim Kowalski
Reg. No. 44,192

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GROUP 3700

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Paper No. 14

Application Number: 09/635,956
Filing Date: August 10, 2000
Appellant(s): LOOSE, TIMOTHY C.

Timothy Kowalski
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 23 June 2003.

(1) **Real Party in Interest**

A statement identifying the real party in interest is contained in the brief.

(2) ***Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or

be directly affected by or have a bearing on the decision in the pending appeal is contained in the

brief.

(3) ***Status of Claims***

The statement of the status of the claims contained in the brief is correct.

(4) ***Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in

the brief is correct.

(5) ***Summary of Invention***

The summary of invention contained in the brief is correct.

(6) ***Issues***

The appellant's statement of the issues in the brief is correct.

(7) ***Grouping of Claims***

While the Grouping of the Claims section fails to state that the claims do not stand or fall

together, it appears from the Appellant's Brief that this is what is intended. Appellant has

divided the claims into subgroups for discussion, with these subgroups standing and falling

together.

(8) ***Claims Appealed***

The copy of the appealed claims contained in the Appendix to the brief is correct.

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Art Unit: 3714

Page 3

(9)   *Prior Art of Record*

The following is a listing of the prior art of record relied upon in the rejection of claims

under appeal.

6,394,900	McGlone et al.	05-2002
6,315,663	Sakamoto	11-2001

(10)   *Grounds of Rejection*

The ground(s) of rejection contained in paper 7 and which are maintained and repeated

herein, are applicable to the appealed claims:

1.   Claims 1-5 & 7-28 rejected under 35 U.S.C. 103(a) as obvious over McGlone et al. (US

Patent Number 6,394,900)

Claims 1, 9, 20: McGlone teaches a slot machine with a central processing unit (422) for

operating the slot machine in response to a wager. There is a reel mechanism including a

motor (38) a symbol bearing real (32) and a reel driver (402). The motor has a rotatable

shaft upon which the reel is mounted. (Fig 1c) The reel driver includes a local

microcontroller (612) distinct from and serially coupled to the CPU. (Fig 6) The reel

driver is coupled to the motor to cause the motor to rotate the reel. (Abstract) The reel

driver performs low-level reel driver operations independent from the CPU. (Fig 8) The

CPU issues high-level commands to the to the reel driver related to the rotation of the

reel. (Abstract) McGlone also teaches that the master gaming controller includes a

memory storing software for device drivers for at least some of the slot reel peripherals.

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(Col 3, 35-41) These device drivers are configuration data and are sent to the local

microprocessor for configuring it to a reel spinning game conducted with a slot machine.

Furthermore, McGlone teaches that, "The peripheral controller may have a non-

volatile memory arranged to store configuration parameters specific to the slot reel

peripheral and state history information of the slot reel peripheral. In one embodiment,

the non-volatile memory might be used to store the configuration parameters needed to

drive the slot reel using the drive mechanism including a moment of inertia of the slot

reel, the size of the slot reel and one or more acceleration parameters." (Col 3, 17-24)

The suggestion that the peripheral (i.e., local) controller may have non-volatile memory

for storing configuration data provides a strong suggestion that the opposite may also be

true. If the peripheral controller does not have non-volatile memory for storing

configuration data, that data must be loaded to the peripheral controller from the central

procession unit. Doing this would eliminate unnecessary duplication of parts because the

data could be stored in one set of non-volatile memory instead of on non-volatile memory

associated with each peripheral controller. This would reduce the cost of the gaming

machine. It would have been obvious to one of ordinary skill in the art at the time of the

invention to have the central processing unit send configuration data to the local

microcontroller for configuring the microcontroller to a reel spinning game conducted

with a slot machine in order to eliminated unnecessary duplication of parts, thus reducing

costs.

Claim 2: Slot machines inherently stop the symbols in visual association with one or

more paylines.

Claim 3: The low-level reel driver operations include monitoring the reel and at least partially controlling its position. (Abstract)

Claims 4, 11: The local microcontroller monitors the reel by sampling its state multiple times per second in real time and responds with control commands for controlling the position of the reel. (Col 8, 45-57)

Claim 5: The local microcontroller is serially connected to the CPU via a Universal Serial Bus. (Col 2, 44-48)

Claims 7, 10: The CPU issues high-level commands to the local microcontroller. The high-level commands include a start reel command for starting the reel and a stop reel command for stopping the reel. (Col 7, 25-33, Col 8, 28-32)

Claim 8, 13: The reel includes an encoder (barcode) for indicating the position of the reel. The reel driver includes a barcode reader (408) that is coupled to the microcontroller so that the microcontroller may monitor the position of the reel. (Col 8, 45-57)

Claim 12: Claim 12 is merely a restatement of claims 1, 4, and 7, which see.

Claims 14, 16, 18, 21: McGlone teaches that the configuration data includes "parameters needed to drive the slot reel using the drive mechanism, including the moment of inertia of the slot reel, the size of the slot reel and one or more acceleration parameters." (Col 3, 21-24)

Claims 15, 17, 19, 22, 26, 27: As noted above, McGlone suggests transmission of configuration data by the CPU to the local microcontroller and processing of that data by the local microprocessor. McGlone also teaches communication between the local

microcontroller and the CPU. (Col 3, 32-33) While McGlone fails to specifically teach

communication of the status of configuration from the local processor to the CPU, it

would be obvious to do so. If the local controller were misconfigured, errors could occur

in the game. These errors could result in players winning when they should not win and

losing when they should not lose. Neither of these conditions is acceptable to a casino.

For example, if the configuration data were for the wrong type of position decoder, it

would be impossible to determine which symbols appear along a payline. It would have

been obvious to one of ordinary skill in the art at the time of the invention to have

communicated of the status of configuration from the local processor to the CPU and to

have compared the configuration data with the determined type of position encoder in

order to prevent the game machine from operating in a misconfigured condition that

would lead to errors in the game.

Claim 23: McGlone teaches providing a physical symbol-bearing reel (Fig 1b) including

an encoder (410) for indicating the position of the reel. (Col 1, 43-44) McGlone teaches

providing a reel controller for performing low-level operations related to the movement

of the reel. (Fig 8) There is also a CPU for issuing high-level commands to the reel

controller related to the movement of the reels. (Abstract) McGlone also teaches that the

microcontroller that operates the reels must have the parameters and operation features of

the position sensor in order to operate the reels. (Col 1, 42-48, Col 2, 66 – Col 3, 4) The

peripheral controller receives device drivers for operating some of the peripherals from

the CPU. (Col 3, 34-41) This would include the position encoder since the position

encoder is necessary for the operation the slot machine. In order to determine which of

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the various device drivers to download, it would be necessary for the reel controller to
determine the type of encoder present and to report it to the CPU. It would have been
obvious to one of ordinary skill in the art at the time of the invention to have the CPU
send a command to the reel controller to determine the type of position encoder present in
order to download the correct device drivers to the reel controller.

Claim 24: McGlone teaches encoders with one or more flags (i.e., tabs). (Col 8, 52-54)
Thus the type of the encoder is based on the number of flags on the encoder.

Claim 25: As pointed out in connection with claim 23 above, in order to download the
correct device driver, it is necessary to determine the type of encoder being used.

Claim 28: As pointed out in connection with claim 24 above, there are different types of
position encoders. The number of flags or tabs on the encoder determines the type of the
encoder. As pointed out in connection with claim 23, the machine must determine the
type of encoder present in order to correctly configure the device by downloading the
correct device drivers. The easiest way to determine the type of encoder present would
be to cause the motor to spin and count the number of flags on the encoder. Thus it
would have been obvious to one of ordinary skill in the art at the time of the invention to
have caused the motor to spin the reel and detect the physical characteristics (i.e., the
number of flags) of the encoder in order to determine which type of encoder was present,
thus enabling the loading of the correct device driver.

2.   Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over McGlone in view
of Sakamoto (US Patent Number 6,315,663).

Claim 29: McGlone teaches providing a physical symbol-bearing reel (Fig 1b) including

an encoder (410) for indicating the position of the reel. (Col 1, 43-44) McGlone teaches

providing a reel controller for performing low-level operations related to the movement

of the reel. (Fig 8) There is also a CPU for issuing high-level commands to the reel

controller related to the movement of the reels. (Abstract) McGlone teaches that the reel

controller has "configuration parameters needed to drive the slot machine using the drive

mechanism including a moment of inertia, the size of the slot reel and one or more

acceleration parameters." (Col 3, 21-24) But McGlone does not teach an acceleration or

deceleration profile for accelerating or decelerating the reel. Sakamoto teaches an

acceleration or deceleration profile for accelerating or decelerating the reel. (Col 12, 40-

61) Having the reels accelerate and decelerate at varying speeds add visual interest to the

slot machine game. It would have been obvious to one of ordinary skill in the art at the

time of the invention to have the CPU send high-level commands concerning acceleration

or deceleration profile for accelerating or decelerating the reel to the reel controller in

order to add visual interest to the slot machine game.

(11)   Response to Argument

Note: Examiner has answered the Appellant's arguments in the order presented and has

maintained Appellant's paragraph numbering for ease of reference.

I.   Appellant has set forth a brief description of the Law of Obviousness. Since these are not

arguments, Examiner will not address this section further.

II.   Appellant states that claims 1-5, 7-23 and 27 are patentable over McGlone. Appellant

appears to have misconstrued both McGlone and the rejection. The rejection states that the

limitations, including the limitation concerning downloading of configuration data from the CPU

to the reel controller, are met by McGlone. McGlone clearly discloses a preferred embodiment

that downloads device drivers from the CPU to the reel controller. However, since the McGlone

disclosure does not specifically state that the device drivers contain configuration data, and being

wary of the use of inherency in formulating rejections, Examiner chose to err on the side of

caution and reject the claim under 35 USC §103(a) by stating that device drivers obviously

contain configuration data. To support this conclusion, Examiner pointed out in the specification

where McGlone discloses that, in an alternate embodiment, configuration data <u>may</u> be stored on

non-volatile memory on the reel controller. Configuration data is absolutely essential to the

functioning of McGlone's reel controller.

    A. Appellant argues that McGlone does not disclose, teach, or suggest a CPU that sends

configuration data to a local microcontroller for configuring the local microcontroller.

Appellant also argues that McGlone teaches away from the CPU sending such data to the

local microcontroller. As discussed above, Appellant appears to misconstrue both

McGlone and the rejection.

        1. McGlone clearly teaches that, in the preferred embodiment, the master gaming

controller includes a memory storing software for device drivers (i.e.,

configuration data) for at least some of the slot reel peripherals. (Col 3, 35-41)

McGlone also teaches, "The peripheral controller <u>may</u> have a non-volatile

memory arranged to store configuration parameters specific to the slot reel

peripheral and state history information of the slot reel peripheral. <u>In one</u>

<u>embodiment</u>, the non-volatile memory <u>might</u> be used to store the configuration

parameters needed to drive the slot reel using the drive mechanism including a moment of inertia of the slot reel, the size of the slot reel and one or more acceleration parameters." (Emphasis added.) (Col 3, 17-24) Thus, McGlone discloses two embodiments – one with non-volatile memory and a preferred embodiment without non-volatile memory. In the preferred embodiment, the configuration data is loaded to the reel controller by the master game controller or CPU.

There is, however, one minor problem – McGlone doesn't use the words "configuration data" in connection with this embodiment. Instead, McGlone speaks in terms of "device drivers". While one of ordinary skill in the art would know that device drivers must include "configuration data" (see paragraph IIB below), McGlone states in unambiguous terms that "configuration parameters" may be stored on the non-volatile memory of the second embodiment. Because such data is necessary for the functioning of McGlone's device, it would have been obvious to one of ordinary skill in the art at the time of the invention to have downloaded the "configuration parameters" to the preferred embodiment.

2. Appellant argues that McGlone "teaches away" form the notion of loading the configuration data from the CPU. This is not the case. McGlone teaches two embodiments – one that loads configuration data from the CPU and one that does not. This cannot "teach away" from loading configuration data to the reel controller from the CPU.

3. Appellant discusses advantages to the Appellant's disclosed invention. This has no bearing on the issue of obviousness.

4. Appellant argues that the proposed modification of McGlone renders McGlone "unsatisfactory for its intended purpose". This is not the case. First, there is no actually modification to McGlone being suggested. McGlone discloses loading device drivers to the reel controller from the CPU as the preferred embodiment. The "suggested modification" is merely intended to clarify that McGlone recognizes that configuration data is needed to operate the reel controller and that, while McGlone speaks in terms of "device drivers" in reference to the preferred embodiment, these device drivers must obviously contain the configuration data discussed in connection with the second embodiment.

Furthermore, even if there were a modification, it would not render McGlone "unsatisfactory for its intended purpose." McGlone teaches the intended purpose of the invention in Col 2, lines 15-39:

> " Disadvantages of the current slot machine architecture include the following. First, the number of types of motherboards needed to accommodate all of the potential combinations of gaming devices has become large. Second, the computational capabilities of the motherboard needed to drive all the devices has become large. Third, when devices are added to augment the features of the gaming machine or when devices are replaced for maintenance the steps necessary to rewire the device onto the motherboard and load the appropriate software onto the motherboard can be time consuming and require significant shutdown time for the gaming machine. Accordingly, it would be desirable to provide slot reels that are compatible with a standard communication protocol and/or connection system for installing or removing devices controlled by a master gaming controller. A slot reel gaming peripheral that is

compatible with a standard communication protocol and/or
connection system may reduce the number of types of
motherboards that are needed for the gaming machine and may
reduce the amount of maintenance time when a slot reel is
replaced. Further, it would be desirable to have the slot reel
gaming peripheral control some of its own functions rather than
having all the functions controlled by the master gaming controller.
This feature might reduce the load on the computational resources
of the master gaming controller. " (Emphasis added)

The "suggested modification" to McGlone provides "slot reels that are

compatible with a standard communication protocol and/or connection system for

installing or removing devices controlled by a master gaming controller." The

advantages enumerated by McGlone (reduction of the number of types of

motherboards, reduction of the amount of maintenance time when reels are

replaced, and reduction of the computational load of the master game controller)

are still achieved. Therefore, the proposed modification does not render McGlone

"unsatisfactory for its intended purpose" or "change the principle of operation" of

the reference.

B. Appellant argues that device drivers are not "configuration data". Appellant is

incorrect.

1. Appellant argues that device drivers are programs and not data. This shows a

misconception of what data is. Data is information. A program is information.

This has long been recognized by practitioners of the art. Device drivers are an

excellent example of a program that bears information – in this case,

configuration data. As noted in *Microcomputers* (Sandon, IBM Microelectronics

Division, 1999, http://www.mrw.interscience.wiley.com/eeee/63/1663/W.1663-

4.html), "The device driver is the piece of code that does have device specific

information." (See Appendix A)

A device driver provides information concerning the characteristics of a

device and uses that information to control the device. It is important to note that

the device driver could not possibly function without configuration data.

Configuration data must be part of the device driver.

A device driver for a slot machine reel controller, for instance, would have

to contain information concerning the number of symbols of a reel, the number of

steps per revolution of a stepper motor, number of pulses per step, etc. in order to

function. The device driver uses this information to control the reels and could

not control the reels without it.

2. Appellant's argument that Examiner changes the definition of "data" is in

error. As pointed out above, "data" is information and a program (especially a

device driver) is or contains information.

3. It is important to note that Appellant does not dispute that McGlone teaches

loading device drivers from the CPU to the local controllers. This, along with a

proper understanding of what a device driver contains, renders the arguments in

section A above moot. McGlone clearly teaches loading device drivers from the

CPU to the local microprocessor. Device drivers contain configuration data. If

the device driver is loaded, the configuration data is also loaded.

C. Appellant argues that there would be no reason to make the proposed modification.

As pointed out above, there is really no "proposed modification". The rejection merely

points out that the device drivers are obviously configuration data and posits a reason for using the preferred embodiment instead of the second embodiment. McGlone discloses a preferred embodiment in which configuration data (in the form of device drivers) are loaded to the reel controller by the CPU. This version does not have non-volatile memory. Yet even if there were a modification, such a modification would result in a reduction in the duplication of parts and in a cost savings. This is because RAM is significantly less expensive than ROM. As pointed out in the Advisory Action, Appellant has failed to provide any evidence concerning the relative costs for RAM and ROM chips. Therefore Appellant's allegation that there would be no cost savings is completely unsupported by evidence. It is merely a statement of Appellant's opinion.

Examiner has researched differences in RAM and ROM pricing and has discovered that RAM is significantly cheaper than ROM. While the Examiner does not know exactly what types of RAM and ROM might be used in construction of a reel controller, Examiner has discovered that 250 MB of Ram costs something in the neighborhood of $50. In contrast, a single megabyte of ROM costs $355. (See Appendix B.) This strongly suggests that there would be significant cost savings to be had by replacing the expensive ROM chips with cheaper RAM chips.

In view of the foregoing, Examiner respectfully requests the rejection of claims 1-5, 7-23 and 27 be affirmed.

III.   Applicant argues that claims 15, 17, 19 and 22 should not have been rejected over McGlone. First, Appellant argues that McGlone fails to teach downloading configuration data to the local microprocessor of the reel controller from the CPU. As discussed immediately above,

this is not the case. McGlone's preferred embodiment loads configuration data to the local

microprocessor of the reel controller from the CPU.

Appellant then argues that Examiner fails to establish a prima facie case of obviousness

because McGlone fails to explicitly teach all of the limitations of the claim. Applicant is in

error. If Appellant's argument were valid, it would never be possible to make a rejection under

35 USC §103(a) using a single reference. Yet such rejections are common, and, what is more,

they are often appropriate. If a problem and solution are well known to the art, it is appropriate

to apply that knowledge to a disclosure without use of another reference.

In this case, slot machines reel controllers require absolute accuracy. This is not only to

meet the requirements of stringent regulation, but also to keep casinos from paying significant

amounts of money. This is a well-known problem. McGlone teaches communications between

the reel controller's local microprocessor and the CPU, but does not specifically teach the

content of this communication. It is well known to double check critical data. One of the oldest

rules of computer programming is that if a program writes a value (i.e., loads it into memory),

the program should check to see that the value was correctly written. Checking data integrity is

well known to the art and is imperative if a system is to work properly. Applicant's argument, if

accepted, would result in the granting of a patent for following a standard computer

programming practice.

In view of the foregoing, Examiner respectfully requests the rejection of claims 15, 17,

19, and 22 be affirmed.

IV. Appellant argues that claims 23 and 27 are improperly rejected. Applicant argues that

McGlone teaches that checking the type of encoder is not necessary because McGlone does not

teach loading the configuration data to the reel controller. As discussed in connection with

claims 1-5, 7-23 and 27, the preferred embodiment of McGlone's invention does teach loading

the configuration data from the CPU to the reel controller. Thus it would certainly be necessary

to determine which device driver to load in order to ensure the proper functioning of McGlone's

device. Since all of Appellant's arguments are based on the wrong embodiment of McGlone's

invention, they are moot.

In view of the foregoing, Examiner respectfully requests the rejection of claims 23 and 27

be affirmed.

V.   Appellant argues that claim 28 is improperly rejected. Appellant argues that McGlone

does not suggest determining the type of encoder present. As noted above, this is an error caused

by using the wrong embodiment described in McGlone to formulate the argument. Appellant

also argues that McGlone determines the device driver to load based on a series of numbers.

This is true, but this is only after the master game controller determines what type of encoder

present (Fig 7, 730, Col 16, 17-43). This is accomplished by querying the local controller. Note

that in block 700, McGlone discloses running diagnostics to determine is the peripheral is

running properly. This would include spinning the reels and testing the encoder. This would

generate the best data concerning what type of encoder was actually present. Data in a table may

be corrupt. It may be entered wrong. It may reflect hardware that was changed without updating

the table. But data gathered from the device itself cannot have these problems. The easiest and

best way to determine what type of encoder is actually physically present on the machine is to

gather that information from the encoder itself by spinning the reels.

In view of the foregoing, Examiner respectfully requests the rejection of claim 28 be

affirmed.

VI.   Appellant argues that rejection of claim 29 was improper. Appellant argues that

McGlone fails to teach transferring the table of step rates from the CPU to the reel controller. As

pointed out above, this argument is based on the less preferred embodiment of McGlone's

invention. As pointed out by the Appellant, McGlone does teach that the stepper motor rate

instructions are loaded onto the reel controller. McGlone teaches that the reel controller issues

low level commands to the stepper motor in response to high-level commands from the master

gaming controller. The full paragraph that includes the portion quoted in Appellant's Brief (page

17) clearly describes this process:

> The devices comprising the slot reel peripheral may be controlled directly by the
> master gaming controller 422 via a series of low-level instructions or indirectly by
> the master gaming controller via high-level instructions to the slot reel controller
> 402 which then sends out the low-level instructions. For example, to spin up the
> slot reel 420 from an initial non-rotating position and then to spin it down to a
> final position, the stepper motor 418 might require a series of low level
> instructions including charge the motor, initiate the first step, first delay period,
> initiate the second step, second delay period, initiate the third step, third delay
> period, initiate the fourth step, fourth delay period, perform the final step, and
> stop the motor. When the slot reel is accelerating, the length of time of each delay
> period between successive steps may decrease. When the slot reel is decelerating
> the length of time of each delay period between successive steps may increase.
> The step rate, which is a function of the length of time of each delay period
> between successive steps, may be based on a table stored in memory
> corresponding to the particular slot reel. When the master gaming controller
> directly controls the stepper motor, the master gaming controller would send the
> series of low-level instructions to the stepper motor. However, with a slot reel
> peripheral 400 containing a slot reel controller 402, the master gaming controller
> might send a high-level instruction to the slot reel controller 402 corresponding to
> a series of low-level instructions for a particular device. The slot reel controller
> 402 may interpret the high-level instruction and convert it to a series of low-level
> instructions. For the stepper motor example described above, the low-level
> commands, charge the motor, initiate first step, step at rate 1, step at rate 2, step at
> rate 3, step at rate 4, perform final step, and stop the motor, might be initiated by

the slot reel controller 402 after receiving a high-level instruction from the master gaming controller 422 like "move the slot reel 420 to position A." (Col 9, 23-57) (Emphasis Added)

Appellant's argument has clarified the meaning of claim 29 to the Examiner. Examiner now understands that McGlone also teaches an acceleration profile and deceleration profile. Therefore, it was not necessary to make reference to Sakamoto. However, Sakamoto is more explicit in its teaching than McGlone. Therefore, the rejection is still proper since both Sakamoto and McGlone teach an acceleration profile.

On page 6 of Appellant's specification an "acceleration profile" is defined as telling the reel "how to begin spinning". Sakamoto does this by having the CPU tell the stepper motor what rate and direction to spin at. McGlone's CPU issues a high level command that says, "move the slot reel 420 to position A". This tells the reel how to begin spinning – in a certain pre-programmed direction and at a certain pre-programmed rate. It also issues a deceleration profile telling the reel controller "how to stop spinning the reel". It tells the reel controller to stop spinning the reel so that it comes to rest at position A. Therefore, McGlone renders the claimed invention obvious.

In view of the foregoing, Examiner respectfully requests the rejection of claim 29 be affirmed
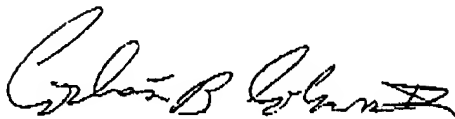
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,
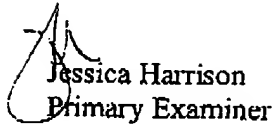
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